IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8901 of 2025

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M/s. Gudari Sah Ramanad Sah, a Proprietary concern having its place of business at Kishunpura, Madarpur, P.S. Basantpur, District Siwan, through its Authorized Representative Ankit Kumar, aged about 20 years, Male, Son of Manoj Prasad, Resident of Kishunpura, Madarpur, P.S. Basantpur, District Siwan.

... ... Petitioner/s

Versus

1. The Union of India through The Secretary, Ministry of Finance, Government of India, New Delhi
2. The Secretary, Ministry of Finance, Government of India, New Delhi
3. The State of Bihar through The Commissioner of State Tax cum Secretary, Department of State Tax, Government of Bihar, Main Secretariat, Patna.
4. The Commissioner of State Tax cum Secretary, Department of State Tax, Government of Bihar, Main Secretariat, Patna
5. The Additional Commissioner, State Tax, Saran Division, Chapra (Saran)
6. The Deputy Commissioner of State Tax, Siwan
7. The Joint Commissioner, State Tax, Siwan Circle, Siwan.
8. The Assistant Commissioner, State Tax, Siwan Circle, Siwan.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lokesh Kumar, Advocate Mr. Vikash Khanna, Advocate
For the Respondent/s	:	Mr. Vikash Kumar, SC-11 Mr. Sri Ram Krishna, Counsel for GST Mr. Prabhat Kumar Singh, Advocate Ms. Rashmi Ranjan, Advocate Mr.Additional Solicitor General

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

5 20-08-2025 In the instant petition, petitioner has prayed for following relief:-

" *(a) For quashing the ex parte, Assessment Order dated 18.04.2024 passed under*

Section 73(5) of the BGST Act, 2017 by the Deputy Commissioner, State Tax, Siwan Circle, Siwan and subsequent demand raised in Form DRC 07 dated 18.04.2024 with respect to Financial Year 2018-19 as the same has been passed without granting any opportunity of hearing as contemplated under Section 75(4) of the BGST Act, 2017 and also without service of any notice, much less, show cause notice by any mode of service as contemplated under Section 169 of the BGST Act, 2017;

(b) For holding that passing of the ex parte impugned assessment order dated 18.04.2024 without granting an opportunity of hearing as contemplated under Section 75(4) of the BGST Act, 2017 is violation of principle of natural justice and the impugned assessment order is liable to be quashed;

(c) For holding that as the Petitioner Firm was not served with the purported show cause notices or the impugned ex parte assessment order by a valid mode of service as contemplated under Section 169 of the BGST Act, 2017, the same amounts to principle of natural justice and the impugned order is liable to be quashed and set aside;

(d) For holding that mere uploading of Notices under the heading of 'Additional Notices and Orders' on the GST portal cannot be considered to be a valid mode of service of notice as required under Section 169 of the BGST Act, 2017;

(e) For holding that in the facts of the present case, the impugned assessment order dated

18.04.2024 is an ex parte order as the notices were never served upon the Petitioner firm in terms of Section 169 of the BGST Act, 2017 nor the Petitioner was granted an opportunity of hearing in terms of Section 75(4) of the BGST Act, 2017; and/or for any other relief(s) as Your Lordships may deem fit and proper in the facts of the present case and in the interest of justice."

2. Learned counsel for the petitioner submitted that the petitioner has not been provided ample opportunity of appearance before passing of assessment order, the same was countered by the respondent submitting that they had issued a notice followed by reminder, since there was no response, resultantly, they proceeded to pass ex parte assessment order on 18.04.2024. Learned counsel for the petitioner further submitted that they are required to comply sub-Section 4 of Section 75 of the BGST Act, 2017 insofar as providing oral hearing to the petitioner.

3. Perusal of the records, it is evident that there is non-compliance of sub-Section 4 of Section 75 of the BGST Act, 2017. On this short ground, the petitioner has made out the case so as to interfere with the impugned action of the respondent, accordingly, they are set aside.

4. Matter is remanded to the Assessment Officer to proceed afresh after giving due ample opportunity of filing of reply/explanation to the show cause notice followed by oral hearing to the petitioner on behalf of the Official Respondent. The petitioner shall co-operate with the official respondent. The above exercise shall be completed by the competent authority/Assessment Officer within a period of three months from the date of receipt of this order.

5. Writ petition is allowed.

(P. B. Bajanthri, J)

(Shailendra Singh, J)

Maynaz/Rajiv-

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